O-Financial

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File No. Rules/45

Legal Department—

A **BRANCH**

Subject:—

Opinions Under the

Financial Publications

O. Financial Rules/45

File No.

Gen. 194 e.

317-A

C O N T E N T S

Legal Department File No. O. Financial Rules /45

Sr. No.	R.I/. O. No.	Subject	Pages.
		Opinions under the Financial Publications.	
1.	O. No. 3181 / 24-4-49	Whether it is necessary to amend clauses 1 & 2 in rules 75A (a) of the Financial Rules under D.R. 38(e) Financial Publication No. I in the light of the Lahore and calcutta High Court sessions under which for the purpose of calculating the part of salary liable to Attachment the deductions made on account of income tax and suscriptions to G.P. Funds should not be excluded	1-2-

Mjr/7/9
4 Cs.

P.M. 2/8

Accts 2/4

Office of the R.L.A.

In view of the rulings of the Lahore and Calcutta High Courts the Central Government has amended rules 226 and 227 of the Central Government Treasury Rules and has asked Provincial Governments to take steps to amend their financial rules accordingly. The question raised for the consideration of the R.L.A. is whether it is necessary to amend rule 75-A of Financial Publication No. I accordingly.

2. Rules 226 and 227 of the Central Government Treasury Rules as they stood before they were recently amended p provided that the maximum amount attachable by a Civil Court should be calculated on the amount earned exclusive of (i) allowances declared exempt from attachment under cáluse (1) of the proviso to sub-section (1) of section 60 of the Civil Procedure Code, (ii) any subsistence grant or allowance made to any publicak officer while under suspension and (iii) compulsory deductions in respect of subscriptions to the Provident Fund and recoveries of taxes on income. In Umar Khan v Abdul Wahid (A.I.R. 1943, 60) the Lahore High Court held;

"The word 'salary' as used in section 60(1) of Civil Procedure Code means the total monthly emoluments to which a person is entitled including any sum which may be required for payment of the taxes or payments or repayments to a provident fund even though these may be recovered by compulsory deduction from his salary; in other words salary means the total gross salary.

A similar view seems to have been taken by the Calcutta High Court; but unfortunately that ruling is not readily traceable. In view of these decisions the Central Government had to amend rules 226 and 227 o' the Central Government Treasury Rules.

3. Rule 75-A of the Financial Publication Part I practical embodies rules 226 and 227 of the Central Government Treasury Rles in so far as it relates to calculating the attachable part of the salary of a public servant. When

P.T.O.

rules 226 and 227 of the Central Government Treasury Rules have been amended so as to be in consonance with the High Court decision, rules 75-A of the Financial Publication No. I will have necessarily to be amended accordingly

Id/- Sd/- P.N.M.
24/4/45

Remembrancer of Legal Affairs.

U.R. to F.D. No. 3181, dated the 24th April 1945.

Mjr/ 9/7
4 Cs.